

**Minutes
Bar Harbor Planning Board
January 16, 2008**

Members present: Kay Stevens-Rosa, Chair; Jennifer Booher, Vice-Chair; Mike Gurtler; Kevin Cochary;

Also present: Anne Krieg, Town Planner; Angela Chamberlain, Code Enforcement Officer; Kris Hultgren, Staff Planner; Lee Bragg, Town Attorney

I. CALL TO ORDER — 5:30 p.m.

II. EXCUSED ABSENCES

III. ADOPTION OF THE AGENDA

Mr. Gurtler made a motion to adopt the agenda. Mr. Cochary seconded and the board voted unanimously on the motion.

IV. APPROVAL OF MINUTES

Mr. Gurtler made a motion to approve the minutes from the October 3, 2007 meeting. Mr. Cochary seconded and the Board voted unanimously on the motion.

V. REGULAR BUSINESS

A. Remand – SD-06-08 – Cadillac Management, LLC

Project Location: 336 Main Street, Bar Harbor Tax Map 104, Lots 30, 38, 39, 40

Applicant: Cadillac Management, LLC

Application: The application proposes to build an addition to the existing Cadillac Mountain Office Building, with accompanying changes to parking and pedestrian circulation. This agenda item is a remand of the Planning Board decision dated September 22, 2007, from the Board of Appeals (AB-07-16).

Perry Moore, representing the applicant, updated the Board on the new site plan submitted on January 9, 2008. Mr. Moore's update included a new parking arrangement on Lot 2 and an updated stormwater plan. Mr. Moore says he agrees with Mr. Patterson's interpretation of green space credits and has changed the plan to reflect that. Mr. Moore reviewed the new stormwater plan and described conversations with Public Works Director Chip Reeves and MaineDOT. Mr. Moore said he received a draft of the MaineDOT permit today.

Mr. Gurtler asked the applicant to describe the plans to phase the development. Mr. Moore said phase 1 is to build the shell of the building and occupy the first floor. He said the applicant plans to come back to the Board for approval of phase 2. In regards to parking Mr. Moore said that only lot 1 parking is part of phase 1 and they have enough parking and credits to satisfy the ordinance requirements.

The Board and the applicant reviewed the update of the traffic study for the neighborhood around the project.

Mr. Moore discussed the parking on lot 1 and lot 2 and talked about wanting to separate the parking in different phases.

John Theriault described MaineDOT's main concerns with phase 1 being the construction of the bump-outs on Center Street.

Mr. Theriault continued talking about the updated traffic study. He described the process of evaluating the traffic in the neighborhood and said he took a very conservative look at the area that included full build out of the new office building. His analysis does not show that the level of service will decrease below 'C' in the neighborhood.

Mr. Gurtler asked about including Snow Street in the analysis.

Mr. Theriault talked about including Snow Street in the analysis. He said it was not included but the volume of traffic is very light within the neighborhood and it would not change his conclusions.

Mr. Cochary expressed some concern that cars looking for parking spaces within the neighborhood will degrade the level of service at the intersections.

Mr. Theriault reiterated that MaineDOT has signed off for phase 1 by requiring the applicant to build bump-outs. He included data from MaineDOT that show that these intersections around the project and in the neighborhood are not considered high crash locations by the state.

Ms. Krieg asked the applicant to reiterate what they are asking of the Board at this meeting because they have asked MaineDOT to approve both phases. Mr. Moore described the phase 1 approval and asked the Board to approve that portion.

Mr. Gurtler asked if the applicant is willing provide a sign directing overflow parking to lot 2. The applicant said yes.

Ms. Krieg asked why the applicant is not seeking Planning Board approval of phase 2 at the same time like it is with MaineDOT. Mr. Moore said the reason is because the applicant does not have a tenant for the new building anymore.

The Board asked about opening the meeting to public comment. Ms. Krieg referred the Board to a letter by attorney Patterson encouraging them to reopen the public hearing. Mr. Bragg weighed in and said it is up to the Board whether they want to open the public hearing. The Board declined to open the meeting to public hearing.

Mr. Gurtler made a motion to approve the application conditional upon only the first floor of the proposed addition being occupied, the applicant posting signage adjacent to Oliver Street identifying additional parking for Cadillac Management in Lot 2 and the applicant must seek approval from the Town's Parking and Traffic Committee for the bump-outs approved as part of Phase One prior to their construction as may be required. Mr. Cochary seconded and the Board voted unanimously on the motion.

B. Completeness Review – SD-07-05 – Sand Point Road Subdivision

Project Location: 192 Sand Point Road, Bar Harbor Tax Map 204, Lot 62 and a portion of Tax Map 208, Lot 45

Applicant: Brian D. Shaw

Application: Proposes a 7 lot residential subdivision

Ms. Stevens-Rosa reviewed the completeness review process.

Noel Musson, representing the applicant, gave an overview of the project. He handed out a description of each lot listing the different lot lines of each parcel.

The Board and the applicant discussed the side and rear lot lines of parcel 3. Mr. Bragg also inquired about the different lot lines. The Board and the applicant continued to discuss the definition of a lot. The discussion continued about lots 4,5,6 and 7. The road frontage and lot widths were of some concern and the applicant agreed to address these issues.

Mr. Musson said the applicant's plan is to make the land on the north side of the new road coming in off of Sand Point Road open space.

Mr. Musson acknowledged that a culvert on Sand Point Road indicated on the site plan is in the wrong place.

Ms. Booher made a motion to find the application complete. Mr. Gurtler seconded and the Board voted unanimously on the motion.

C. Sketch Plan Review – SD-07-08 – Seabury Woods

Project Location: Seabury Drive, Bar Harbor Tax Map 207 Lot 32

Applicant: Tranquility Bond, LLC

Application: Proposes to subdivide 24.4 acres into 7 lots

Sam Coplon, representing the applicant, gave an overview of the project. He described the plan for 7 lots at the beginning of Seabury Drive just off of Route 3. Mr. Coplon said much of the research on the property was done previously and that information will be used in this application.

Mr. Gurtler asked about improvements to the road in front of this parcel. Mr. Coplon said that is still on the table but recommended a road association be created to deal with maintenance.

Mr. Gurtler inquired about the ownership of the road and Mr. Coplon responded that the ownership has changed hands and is now owned by a corporation.

Mr. Coplon said the applicant will adopt the covenants as close to possible as to what currently exists for the Eden Woods subdivision.

The Board and the applicant discussed upgrading the fire pond on the lot across from the subject parcel.

Mr. Coplon said all lots will be accessed from Seabury Drive and not Route 3.

Mr. Gurtler asked about the large wetland in the middle of the property and whether it would affect the building envelopes on a couple of the lots. Mr. Coplon said he did not think that the wetlands connected and would be under 2 acres and not required to be set back.

Mr. Gurtler made a motion to grant waivers as requested. Ms. Booher seconded and the Board voted unanimously on the motion.

Ruth Calais, an abutter to the property, shared her discomfort with the size of the road and talked about safety conditions when she is walking the road with her children. She asked the Board not to approve a project with a substandard road.

John Kelly, an abutter to the property, said he thought the plan is an improvement from previous plans and is encouraged by the talk of a creation of a road association. He also is pleased that the fire pond will be upgraded. He requested the applicant adopt the same covenants as the Eden Woods subdivision. Mr. Kelly asked about a cap on subdividing the land.

Mr. Cochary asked the applicant to make clear to the Board who owns the road. Mr. Copeland agreed.

The Planning Board directed staff to schedule a neighborhood meeting.

D. Sketch Plan Review – SD-07-09 – Woodworth Subdivision

Project Location: 222 Kitteridge Road, Bar Harbor Tax Map 236 Lot 9

Applicant: Caroline and Nell Woodworth

Application: Proposes to subdivide 12.78 acres into 3 lots

Mr. Gurtler disclosed that the applicant once was a babysitter for his family.

Ms. Booher made a motion to not ask Mr. Gurtler to recuse himself. Mr. Cochary seconded and the Board voted unanimously on the motion.

Sam Copeland, representing the applicant, gave an overview of the project. He said the intent is to sell one of the parcels and keep the other two parcels for the two applicants. This subdivision is a part of a previously approved subdivision. Mr. Copeland said that a portion of the site is identified as a deer wintering area. The applicants is asking for a modification of standards that the existing access ways be adequate out to the existing properties. The house lot is the lot that is planned to be sold off.

Mr. Gurtler asked if there are any restrictions on future subdivision. Mr. Copeland said the applicant is open to considering that option.

Ms. Krieg mentioned a fire road that connects Kitteridge Road and Pine Heath Road.

Mr. Gurtler made a motion to grant the waivers as requested. Ms. Booher seconded and the Board voted unanimously on the motion.

There was no public comment.

The applicant agreed to notify the planning department when the site is ready to walk.

E. Sketch Plan Review – SD-07-12 – Stephen Cough

Project Location: Norway Drive, Bar Harbor Tax Map 237 Lot 6

Applicant: Steve Cough

Application: Proposes to subdivide 8.5 acres into 3 lots

Greg Johnston, representing the applicant, gave an overview of the project. He described the 3 lot division, rights-of-way leading to the back lot, setbacks from a forested wetland and the Bangor-Hydro easement running through the land.

Mr. Johnston described the need to cross the forested wetland to access Lot 1 with a driveway. About 1,600 feet of impact on the wetland was determined by working with John Cullen at the DEP.

Mr. Cochary inquired about access to other properties and Mr. Johnston said there are no planned access ways from the rear of the property.

Mr. Booher asked if the land could be further subdivided and Mr. Johnston said he doesn't believe its possible because of zoning standards.

Ms. Booher made a motion to accept the waivers as requested. Mr. Gurtler seconded and the Board voted unanimously on the motion.

Ms. Stevens-Rosa opened the meeting to public comment. There were no public comments.

The Board discussed the need for a neighborhood meeting and decided not to hold one. Mr. Johnston said a neighborhood meeting was organized before the moratorium.

A site visit will be scheduled once the property is ready.

F. Completeness Review – SD-07-10 – Eventyr Woods

Project Location: Eagle Lake Road, Bar Harbor Tax Map 107 Lot 1

Applicant: Robert Juliano

Application: Proposes a 46 lot residential subdivision

Mr. Gurtler made a motion to move the completeness review to the February 6 Planning Board meeting. Ms. Booher seconded and the Board voted unanimously on the motion.

VI. OTHER BUSINESS

- A. Land Use Ordinance Work:
Communications Tower
Groundwater
Planning Board and Appeals Board Process

Ms. Krieg reviewed the Land Use Ordinance updates for June Town Meeting and explained the schedule of going to the Town Council for final approval of the language on January 29.

Mr. Hultgren updated the Board on the Communications Tower Ordinance. This included reviewing the changes to the ordinance since the last time the Board was updated. These changes included eliminating the overlay district and setting the height standard at 125 feet. Mr. Hultgren discussed the public meeting on the ordinance on January 9 and its initial introduction to the Town Council on January 15. Based on feedback from these two meetings Mr. Hultgren said the ordinance was likely to change further.

Mr. Cochary asked about ways the ordinance will keep the number of towers to a minimum while also covering as many people as possible in town. Mr. Hultgren talked about trying to limit the number of towers by having strong collocation requirements in the ordinance but cautioned that the town cannot mandate that all parts of the town be covered. Market coverage is up to the provider.

Ms. Stevens-Rosa opened the meeting to public comment.

Michael Good, a resident of Bar Harbor, spoke about the impacts towers have on migratory bird patterns and specifically about the dangers that guy wires pose to birds.

Ms. Krieg pointed out that the wireless ordinance is more stringent than other parts of the Land Use Ordinance.

Ms. Booher pointed out that as the ordinance currently stands the town is vulnerable because there is nothing regulating the placement of tower.

Robert Phipps, a resident of Bar Harbor, spoke about the children and the distance of towers to schools. He went on to mention studies that have shown serious health effects to children by being exposed to cell tower emissions. He spoke about the tower in the fire house as being a poor location choice.

Scott Anderson and Chip Fredette from Verizon spoke about the importance of the Planning Board having discretion in the process and mentioned that the FCC says

towns cannot make siting decisions based on the perceived health risks of communications towers.

Judith Blank asked if it is possible to keep these types of facilities out of town altogether.

Barbara Meyers, a resident of Cranberry Isle, spoke about the health impacts of radiation emitted by cellular phone towers and urged the Planning Board to endorse setback provisions from schools and private property.

Dessa Dansey suggested other ways to regulate towers and said a special use permit would be a better system of allowing towers.

John Kelly of Acadia National Park spoke about the process of approving the ordinance and importance of protecting scenic vistas.

Ms. Krieg went over the ordinance changes regarding the Appeals Board and Planning Board. This included changes to the request for reconsideration and other processing procedures.

Ms. Krieg reviewed the updates to the Groundwater Ordinance.

B. Endorsement of Millbrook Hollow Subdivision

The Board approved endorsement.

VII. PLANNING DIRECTOR'S REPORT

VIII. BOARD MEMBER COMMENTS AND SUGGESTIONS FOR THE NEXT AGENDA

IX. ADJOURNMENT - 9:40 PM

Signed as approved:

Kay Stevens-Rosa, Chair
Planning Board, Town of Bar Harbor

Date